

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-40266 CBS

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Plaintiff

v.

TOWN OF NORTH BROOKFIELD,

Defendant

AFFIDAVIT OF THOMAS W. McENANEY IN SUPPORT OF
DEFENDANT'S REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANT'S LOCAL
RULE 56.1 STATEMENT OF MATERIAL FACTS NOT IN DISPUTE AND
STATEMENT OF ADDITIONAL FACTS IN OPPOSITION TO DEFENDANT'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Thomas W. McEnaney, on oath, depose and state the following:

1. I am attorney at Kopelman and Paige, P.C. and counsel of record for the Town of North Brookfield in the above-captioned matter.
2. Attached hereto as Exhibit A is a true and accurate copy of the Meeting Notes prepared by project architect Dore & Whittier from the May 21, 2003 meeting, which was marked as Exhibit 124 in the deposition of Bert Capone.
3. Attached hereto as Exhibit B are true and accurate copies of the following pages from the transcript of the deposition of Richard P. Anastasio ("Anastasio"): 54, 61, 62, 63, 64.
4. Attached hereto as Exhibit C is a true and accurate copy of a letter dated May 30, 2003 from Robert O'Neill to Stephen Beatty of American Manufacturers

Mutual Insurance Company (“AMMIC”), which was marked as Deposition Exhibit 125 in the deposition of Bert Capone.

5. Attached hereto as Exhibit D are true and accurate copies of the following pages from the transcript of the deposition of Robert O’Neill: 93, 94, 95, 96.
6. Attached hereto as Exhibit E are true and accurate copies of the following pages from the transcript of the Fed. R. Civ. P. 30(b)(6) deposition of AMMIC, Stephen J. Beatty designee: 81, 82, 85, 88, 89, 94.
7. Attached hereto as Exhibit F is Mr. Anastasio’s Rebuttal Report in response to the expert report of Chris Conway.
8. Attached hereto as Exhibit G is Mr. Anastasio’s Rebuttal Report in response to the expert report of Lee P. Dore.
9. Attached hereto as Exhibit H are copies of pages 41 and 42 from the transcript of the deposition of Matthew J. Daly by plaintiff’s counsel in In re: Edward J. Sciaba, Jr., U.S. Bankruptcy Court, District of Massachusetts, Eastern Division, Case No. 03-20569 CJK.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 31st DAY
OF JANUARY, 2006.

/s/ Thomas W. McEnaney
Thomas W. McEnaney